

**DEPARTMENT OF STATE REVENUE  
LETTER OF FINDINGS NUMBER: 01-0261  
STATE GROSS RETAIL TAX  
For Years 1998 AND 1999**

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**ISSUES**

**I. State Gross Retail Tax—Adequate Documentation**

**Authority:** 45 IAC 15-5-4; IC § 6-8.1-5-1; IC § 6-8.1-5-4

Taxpayer protests the proposed assessments of Indiana's State Gross Retail tax.

**STATEMENT OF FACTS**

Taxpayer is an Indiana merchant selling carpeting and flooring, including installation. Taxpayer sells to the general public and businesses with billings as time and material invoicing. Taxpayer had maintained insufficient documentation to establish amounts subject to gross retail tax, thus as part of the audit the auditor and taxpayer's representative signed two projections (Form AD-10A), one to calculate an unreported cash difference for 1998 due to missing records for the months of January 1998 through December 1998 and one to calculate the percentage of reported taxable sales to reported cash for 1998 and 1999. Taxpayer's new representative-engaged by taxpayer after the audit at issue- protested the assessment that was based on these amounts, arguing that the audit misinterpreted taxpayer's accounting system.

**I. State Gross Retail Tax—Adequate Documentation**

**DISCUSSION**

At the hearing, taxpayer's representative stated that the audit misinterpreted the taxpayer's accounting system. The representative did not address the absence of records to support taxpayer's claim of error in the audit determinations, nor did the representative address the projection agreements that this assessment was based on.

This issue revolves around the burden of proof in an audit situation, which IC § 6-8.1-5-4 defines as:

Every person subject to a listed tax must keep books and records so that the department can determine the amount, if any, of the

person's liability for that tax by reviewing those books and records. The records in this subsection include all source documents necessary to determine the tax, including invoices, register tapes, receipts, and canceled checks.

Taxpayer does not cite any statute, regulation, or case law for the proposition that the auditor was required to accept taxpayer's assertions as to the nature of the transactions without any supporting documentation and contrary to two signed projections between the Department and taxpayer for the period in question. Pursuant to the above statute and the requirements of IC § 6-8.1-5-1 and 45 IAC 15-5-4, taxpayer has failed to establish a basis for reversal of this assessment.

### **FINDING**

Taxpayer's protest is denied.

JM/MR020509